

(c)(5)(i) and (ii) of this section, when an authorized purpose of the Project is to construct facilities to serve privately owned Real Property, the Recipient and the Owner must agree to use the Real Property improved or benefited by the EDA Investment Assistance only for the authorized purposes of the Project and in a manner consistent with the terms and conditions of the EDA Investment Assistance for the Estimated Useful Life of the Project.

(iv) *Unauthorized Use and compensation of Federal Share.* EDA may deem that a violation of this paragraph (c)(5) by the Recipient, Owner, purchaser, or lessee (as the case may be) constitutes an Unauthorized Use of the Real Property and the Recipient must agree to compensate EDA for the Federal government's Federal Share of the Project in the case of such Unauthorized Use.

[71 FR 56675, Sept. 27, 2006, as amended at 73 FR 62870, Oct. 22, 2008; 79 FR 76137, Dec. 19, 2014]

§ 314.8 Recorded statement for Real Property.

(a) For all Projects involving the acquisition, construction or improvement of a building, as determined by EDA, the Recipient shall execute a lien, covenant or other statement of EDA's interest in the Property acquired or improved in whole or in part with the EDA Investment Assistance. The statement shall specify the Estimated Useful Life of the Project and shall include, but not be limited to, the Disposition, encumbrance and Federal Share requirements. The statement shall be satisfactory in form and substance to EDA.

(b) The statement of EDA's interest must be perfected and placed of record in the Real Property records of the jurisdiction in which the Real Property is located, all in accordance with applicable law.

(c) Facilities in which the EDA Investment is only a small part of a large project, as determined by EDA, may be exempted from the requirements of this section.

(d) In extraordinary circumstances and at EDA's sole discretion, EDA may choose to accept another instrument to protect EDA's interest in Project Property, such as an escrow agreement or

letter of credit, provided that EDA determines such instrument is adequate and a recorded statement in accord with paragraph (a) of this section is not reasonably available. The terms and provisions of the relevant instrument shall be satisfactory to EDA in EDA's sole judgment. The costs and fees for escrow services and letters of credit shall be paid by Recipient.

[71 FR 56675, Sept. 27, 2006, as amended at 79 FR 76138, Dec. 19, 2014]

§ 314.9 Recorded statement for Personal Property.

For all Projects which EDA determines involve the acquisition or improvement of significant items of Personal Property, including ships, machinery, equipment, removable fixtures or structural components of buildings, the Recipient shall execute a Uniform Commercial Code Financing Statement (Form UCC-1, as provided by State law) or other statement of EDA's interest in the Personal Property, acceptable in form and substance to EDA, which statement must be perfected and placed of record in accordance with applicable law, with continuances re-filed as appropriate. Whether or not a statement is required by EDA to be recorded, the Recipient must hold title to the Personal Property acquired or improved as part of the Project, except as otherwise provided in this part.

[79 FR 76138, Dec. 19, 2014]

§ 314.10 Procedures for release of EDA's Property interest.

(a) *General.* As provided in § 314.2 of this chapter, the Federal Interest in Property acquired or improved with Investment Assistance extends for the duration of the Estimated Useful Life of the Project. While EDA determines the length of the Estimated Useful Life at the time of Investment award, in recent years, the length generally extends for 15 to 20 years, depending on the nature of the improvement. Prior to 1999, the Estimated Useful Life of some Projects, such as water and wastewater Projects, could extend for 40 years or more. Upon request of the Recipient, EDA will release the Federal Interest in Project Property upon expiration of the Estimated Useful Life

as established in the terms and conditions of the Investment Assistance and in accord with the requirements of this section and part. This section provides procedures to govern the manner of obtaining a release of the Federal Interest.

(b) *Release of Property after the expiration of the Estimated Useful Life.* At the expiration of a Project's Estimated Useful Life and upon the written request of a Recipient, the Assistant Secretary may release the Federal Interest in Project Property if EDA determines that the Recipient has made a good faith effort to fulfill all terms and conditions of the Investment Assistance. The determination provided for in this paragraph shall be established at the time of Recipient's written request and shall be based, at least in part, on the facts and circumstances provided in writing by Recipient. For a Project in which a Recorded Statement as provided for in §§ 314.8 and 314.9 of this chapter has been recorded, EDA will provide for the release by executing an instrument in recordable form. The release will terminate the Investment as of the date of its execution and satisfy the Recorded Statement.

(c) *Release prior to expiration of the Estimated Useful Life.* If the Recipient will no longer use the Project Property in accord with the requirements of the terms and conditions of the Investment within the time period of the Estimated Useful Life, EDA will determine if such use by the Recipient constitutes an Unauthorized Use of Property and require compensation for the Federal Interest as provided in § 314.4 and this part. EDA may release the Federal Interest in connection with such Property upon receipt of full payment in compensation of the Federal Interest.

(d) *Release of certain Property after 20 years.* In accord with section 601(d)(2) of PWEDA, upon the request of a Recipient and before the expiration of the Estimated Useful Life of a Project that exceeds 20 years, EDA may release any Real Property or tangible Personal Property interest held by EDA, in connection with Investment Assistance after the date that is 20 years after the date on which the Investment Assistance was awarded.

(e) *Limitations and Covenant of Use.* (1) EDA's release of the Federal Interest pursuant to this section is not automatic; it requires EDA's approval, which will not be withheld except for good cause or as otherwise required by law, as determined in EDA's sole discretion. As deemed appropriate, EDA may require the Recipient to take some action as a condition of the release.

(2) In determining whether to release the Federal Interest, EDA will review EDA's legal authority to release its interest, including the Recipient's performance under and conformance with the terms and conditions of the Investment Assistance; any use of Project Property in violation of § 314.3 or § 314.4 of this part; and other such factors as EDA deems appropriate.

(3) Notwithstanding any release of the Federal Interest under this section, a Recipient must ensure that Project Property is not used for inherently religious activities in violation of applicable Federal law and in violation of nondiscrimination requirements set forth in § 302.20 of this chapter. Accordingly, upon the release of the Federal Interest, the Recipient must execute a covenant of use that prohibits use of Real Property or tangible Personal Property for inherently religious activities prohibited by applicable Federal law and for any purpose that would violate the nondiscrimination requirements set forth in § 302.20 of this chapter.

(i) With respect to Real Property, the Recipient must record a covenant under this subsection in the jurisdiction where the Real Property is located in accordance with § 314.8.

(ii) With respect to items of tangible Personal Property, the Recipient must perfect and record a covenant under this subsection in accordance with applicable law, with continuances re-filed as appropriate, in accordance with § 314.9.

[79 FR 76139, Dec. 19, 2014]

PART 315—TRADE ADJUSTMENT ASSISTANCE FOR FIRMS

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AUTHORITY: 19 U.S.C. 2341 *et seq.*, as amended by Division B, Title I, Subtitle I, Part II of Pub. L. 111-5; 42 U.S.C. 3211; Department of Commerce Organization Order 10-4.

SOURCE: 74 FR 41598, Aug. 18, 2009, unless otherwise noted.

Subpart A—General Provisions

§ 315.1 Purpose and scope.

The regulations in this part set forth the responsibilities of the Secretary of Commerce under chapter 3 of title II of the Trade Act concerning Trade Adjustment Assistance for Firms. The statutory authority and responsibilities of the Secretary of Commerce relating to Adjustment Assistance are delegated to EDA. EDA certifies Firms as eligible to apply for Adjustment Assistance, provides technical Adjustment Assistance to Firms and other recipients, and provides assistance to or-

ganizations representing trade injured industries.

§ 315.2 Definitions.

In addition to the defined terms set forth in § 300.3 of this chapter, the following terms used in this part shall have the following meanings:

Adjustment Assistance means technical assistance provided to Firms or industries under chapter 3 of title II of the Trade Act.

Adjustment Proposal means a Certified Firm's plan for improving its economic situation.

Certified Firm means a Firm which has been determined by EDA to be eligible to apply for Adjustment Assistance.

Confidential Business Information means any information submitted to EDA or a TAAC by a Firm that concerns or relates to trade secrets for commercial or financial purposes, which is exempt from public disclosure under 5 U.S.C. 552(b)(4), 5 U.S.C. 552b(c)(4) and 15 CFR part 4.

Contributed Importantly, with respect to an Increase in Imports, refers to a cause which is important but not necessarily more important than any other cause. Imports will not be considered to have Contributed Importantly if other factors were so dominant, acting singly or in combination, that the worker separation or threat thereof or decline in sales or production would have been essentially the same, irrespective of the influence of imports.

Decreased Absolutely means a Firm's sales or production has declined by a minimum of five percent relative to its sales or production during the applicable prior time period.

(1) Independent of industry or market fluctuations; and

(2) Relative only to the previous performance of the Firm, unless EDA determines that these limitations in a given case would not be consistent with the purposes of the Trade Act.

Directly Competitive means imported articles or services that compete with and are substantially equivalent for commercial purposes (*i.e.*, are adapted for the same function or use and are essentially interchangeable) as the Firm's articles or services. Any Firm that engages in exploring or drilling